

### REMARKS

This Application has been carefully reviewed in light of the Notice of Panel Decision from Pre-Appeal Brief Review mailed June 12, 2009. The Notice of Panel Decision indicates that the panel maintained the rejections of Claims 1-20. Applicants herein amend Claims 1 and 11. Applicants respectfully request reconsideration and favorable action in this case.

#### Rejections under 35 U.S.C. § 102

Claims 1-20 stand rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 6,345,609 issued to Ilija Djordjevic ("*Djordjevic*"). Applicants respectfully traverse and submit that *Djordjevic* does not teach all of the elements of the claimed embodiment of the invention.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Amended independent Claim 1 recites "the high pressure accumulator is embodied in the form of a complete ring." Similarly, amended independent Claim 11 recites "a complete-ring shaped high pressure accumulator integrated into the high pressure radial piston pump." Support for these amendments is found in the Specification and drawings. For example, Applicant defined the term ring as follows:

*Thereby the high pressure accumulator 4 is embodied in the form of a ring in a front side of the pump housing 1. The ring groove can be realized easily by machining processes, by rotation for instance. Thereby the obvious thing would be to make the ring groove in a single operation together with making the bearing holes for drive shaft 2. This allows the pump housing 1 to be machined in one operation without being rechucked, which results in a particularly simple production process.*

Specification, paragraph [0017].

Thus, according to the specification, a ring is machined by rotation for example together with the making of the bearing hole for shaft 2. Thus, as defined by the Applicant a ring comprises a full circle without a beginning and an end.

As another example, paragraph [0006] of the Specification discloses: “A further advantageous embodiment of the invention provides for the high pressure accumulator to be embodied as a ring groove, with the ring groove being placed in the outer circumference of a rotationally symmetrical pump insert.” The ring groove in the pump insert must be a *complete ring* in order for the pump insert to be “rotationally symmetrical.”

As another example, paragraph [0011] of the Specification discloses: “Thereby the central screw offers the advantage that the force is spread evenly across the entire circumference of the ring groove.” (emphasis added). The common definition of “Circumference” is “1: the perimeter of a circle” (<http://www.merriam-webster.com/dictionary/circumference>), or “the distance around a closed curve.” (<http://en.wikipedia.org/wiki/Circumference>). Thus, an open circle, or partial circle, does not have a circumference. Thus, the ring groove in paragraph [0011] must be a complete circle.

Having established that the amendments to Claims 1 and 11 are supported, Applicant submits that *Djordjevic* does not teach the amended limitations. *Djordjevic* discloses a common rail section in the shape of a partial ring, namely approximately 2/3 of a circle. Moreover, Figure 1 is merely a schematic representation. The actual embodiment of the internal common rail 22 is shown in Figure 4 which in addition to the merely partial ring form shows single straight bore sections for each piston that have to meet in the middle section between two pistons.

Therefore, *Djordjevic* does not teach a high pressure accumulator shaped as a complete ring, and thus cannot anticipate the amended claims. Accordingly, Applicant respectfully requests reconsideration and allowance of amended Claims 1 and 11, as well as all claims that depend from Claims 1 and 11.

### **Objections to the Drawings**

The Examiner has objected to the drawings for not showing every feature of the invention specified in the Claims under 37 CFR 1.83(a). In response to the arguments provided by Applicant, the Examiner maintains this objection because the drawings allegedly do not show a high-pressure accumulator in the form of a ring which is a full circle. Applicants respectfully disagree.

Figures 1 and 2 both show a central axis the ring structure of the accumulator 4 as common in technical drawings. The ring 4 which is symmetrical around this axis. Moreover, the description states that the ring groove can be realized by rotation. It is common practice in technical drawings to show rotation symmetrical elements around an axis in a sectional view. The technical drawing further shows openings 3, 12, 14, and 16 using similar axis lines. These openings are clearly understood by a person skilled in the art as having a circular shape. A person skilled in the art would have no trouble interpreting the Figures and determine that numeral 4 identifies an annular ring structure within the piston pump.

Further, as discussed above, the Specification describes a full circle. The Figures are consistent with this description. Thus, a person skilled in the art would interpret the Figures as being consistent with the Specification, and thus showing a full circle.

Accordingly, Applicant respectfully requests that the Examiner withdraw the objections to the drawings.

### **Request for Continued Examination**

Applicants respectfully submit a Request for Continued Examination (RCE) Transmittal. The Commissioner is authorized to charge any fees required to Deposit Account 50-4871 in order to effectuate these filings.

### **Association of Customer Number and Change of Correspondence Address**

Applicants respectfully request that all papers pertaining to the above-captioned patent application be associated with Customer No. **86528**, and direct all correspondence pertaining to this patent application to practitioners at Customer Number **86528**. All telephone calls should be directed to Eric M. Grabski. at 512.457.2030. A Revocation and Power of Attorney will be filed shortly.

**CONCLUSION**

Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants submit a Request for Continued Examination. The Commissioner is authorized to charge the fee of \$810.00 required to Deposit Account 50-4871 of King & Spalding LLP in order to effectuate this filing. Applicants believe there are no other fees due at this time. However, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.457.2030.

Respectfully submitted,  
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Date: July 13, 2009

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